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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-583**

13 **BARBARA DINESE ROBINSON**
14 **aka BARBARA DINESE CONNIFF**
815 Buenavista West
San Francisco, California 94117

A C C U S A T I O N

15 **Registered Nurse License No. 448641**
16 **Public Health Nurse Certificate No. 60202**

17 Respondent.

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19 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the Executive
22 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about January 31, 1990, the Board issued Registered Nurse License Number
25 448641 to Barbara Dinese Robinson, also known as Barbara Dinese Conniff ("Respondent").

26 The license was in full force and effect at all times relevant to the charges brought herein and will
27 expire on July 31, 2011, unless renewed.

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1 **Public Health Nurse Certificate**

2 3. On or about February 10, 1999, the Board issued Public Health Nurse Certificate
3 Number 60202 to Respondent. The certificate was in full force and effect at all times relevant to
4 the charges brought herein and will expire on July 31, 2011, unless renewed.

5 **JURISDICTION**

6 4. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
7 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
8 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
9 Practice Act.

10 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
11 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
12 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
13 may renew an expired license at any time within eight years after the expiration.

14 **STATUTORY PROVISIONS**

15 6. Code section 2761 states, in pertinent part:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 (a) Unprofessional conduct.

19 (f) Conviction of a felony or of any offense substantially related to the qualifications,
20 functions, and duties of a registered nurse, in which event the record of the conviction shall be
21 conclusive evidence thereof."

22 7. Code section 2762 states, in pertinent part:

23 "In addition to other acts constituting unprofessional conduct within the meaning of this
24 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
25 chapter to do the following:

26 (b) Use any controlled substance as defined in Division 10 (commencing with Section
27 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
28 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription, consumption, or self-
4 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
5 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
6 of this section, in which event the record of the conviction is conclusive evidence thereof."

7 8. Code section 2770.7 states, in pertinent part:

8 (c) If the reasons for a current investigation of a registered nurse are based
9 primarily on the self-administration of any controlled substance or dangerous drug or
10 alcohol under Section 2762, or the illegal possession, prescription, or nonviolent
11 procurement of any controlled substance or dangerous drug for self-administration
12 that does not involve actual, direct harm to the public, the board shall close the
13 investigation without further action if the registered nurse is accepted into the board's
14 diversion program and successfully completes the requirements of the program. If
15 the registered nurse withdraws or is terminated from the program by a diversion
16 evaluation committee, and the termination is approved by the program manager, the
17 investigation shall be reopened and disciplinary action imposed, if warranted, as
18 determined by the board.

14 (d) Neither acceptance nor participation in the diversion program shall preclude
15 the board from investigating or continuing to investigate, or taking disciplinary action
16 or continuing to take disciplinary action against, any registered nurse for any
17 unprofessional conduct committed before, during, or after participation in the
18 diversion program.

17 (f) Any registered nurse terminated from the diversion program for failure to
18 comply with program requirements is subject to disciplinary action by the board for
19 acts committed before, during, and after participation in the diversion program. A
20 registered nurse who has been under investigation by the board and has been
21 terminated from the diversion program by a diversion evaluation committee shall be
22 reported by the diversion evaluation committee to the board.

21 9. Code section 2770.11(b) states:

22 If a committee determines that a registered nurse, who is denied admission into
23 the program or terminated from the program, presents a threat to the public or his or
24 her own health and safety, the committee shall report the name and license number,
25 along with a copy of all diversion records for that registered nurse, to the board's
26 enforcement program. The board may use any of the records it receives under this
27 subdivision in any disciplinary proceeding.

25 COST RECOVERY

26 10. Code section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

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4 **RESPONDENT'S TERMINATION FROM**
THE BOARD'S DIVERSION PROGRAM AS A PUBLIC RISK

5 11. On or about April 3, 2008, Respondent was enrolled in the Board's Diversion
6 Program. On or about January 14, 2010, pursuant to Code section 2770.11, the Diversion
7 Evaluation Committee ("DEC") terminated Respondent from the Diversion Program for
8 noncompliance/public risk for testing positive for alcohol on or about March 31, 2009, and
9 January 8, 2010.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of Crimes)**

12 12. Respondent is subject to discipline under Code section 2761(f), in that she was
13 convicted of the following crimes that are substantially related to the qualifications, functions or
14 duties of a licensed registered nurse:

15 a. On or about June 16, 2002, in the case of *People v. Barbara Denise Robinson*, (Super.
16 Ct. San Joaquin County, Case No. MM104360A), Respondent was convicted by the Court on her
17 plea of nolo contendere of violating Vehicle Code section 23152(a) (driving while under the
18 influence of alcohol). The circumstances of the crime were that on or about May 26, 2002,
19 Respondent drove a vehicle while having a blood alcohol level of 0.33%.

20 b. On or about July 11, 2002, in the case of *People v. Barbara Denise Robinson*, (Super.
21 Ct. Stanislaus County, Case No. 1041881), Respondent was convicted by the Court on her plea of
22 nolo contendere of violating Vehicle Code section 23152(a) (driving while under the influence of
23 alcohol). The circumstances of the crime were that on or about May 24, 2002, Respondent drove
24 a vehicle while under the influence of alcohol.

25 c. On or about October 19, 2005, Respondent was convicted of the following:

26 i. In the case of *People v. Barbara Denise Robinson*, (Super. Ct. Stanislaus
27 County, Case No. 1095956), Respondent was convicted by the Court on her plea of nolo
28 contendere of violating Vehicle Code section 23152(a) (driving while under the influence of

1 alcohol). The circumstances of the crime were that on or about July 29, 2005, Respondent drove
2 a vehicle while under the influence of alcohol.

3 ii. In the case of *People v. Barbara Denise Robinson*, (Super. Ct. Stanislaus
4 County, Case No. 1097699), Respondent was convicted by the Court on her plea of nolo
5 contendere of violating Vehicle Code section 23152(a) (driving while under the influence of
6 alcohol). The circumstances of the crime was that on or about August 28, 2005, Respondent
7 drove a vehicle while under the influence of alcohol

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Dangerous Use of Alcohol)**

10 13. Respondent is subject to discipline under Code sections 2761(a), on the grounds of
11 unprofessional conduct, as defined in Code section 2762(b), in that on or about May 24, 2002,
12 May 26, 2002, July 29, 2005, and August 28, 2005, Respondent used an alcoholic beverage to an
13 extent or in a manner dangerous or injurious to herself and the public when she operated a vehicle
14 while under the influence of alcohol, as more particularly set forth above in paragraph 12.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Convictions Involving the Consumption of Alcohol)**

17 14. Respondent is subject to discipline under Code section 2761(a), on the grounds of
18 unprofessional conduct as defined in Code section 2762(c), in that on or about June 16, 2002,
19 July 11, 2002, and October 19, 2005, Respondent was convicted of crimes involving the
20 consumption of alcohol, as more particularly set forth above in paragraph 12.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 448641, issued to Barbara Dinese Robinson, also known as Barbara Dinese Conniff;
2. Revoking or suspending Public Health Nurse Certificate Number 60202, issued to Barbara Dinese Robinson, also known as Barbara Dinese Conniff;
3. Ordering Barbara Dinese Robinson, also known as Barbara Dinese Conniff, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: _____

12/30/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

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